

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

MICHAEL LEON STOVALL

Plaintiff,

v.

LEIGH GWATHNEY, *et al.*,

Defendant.

Case No. 5:22-cv-1110-RDP-GMB

REPORT AND RECOMMENDATION

Plaintiff Michael Leon Stovall has filed a *pro se* complaint under 42 U.S.C. § 1983 alleging violations of his rights under the Constitution or laws of the United States. Doc. 1. The complaint is before a Magistrate Judge for a preliminary report and recommendation. *See* 28 U.S.C. § 636(b)(1); *McCarthy v. Bronson*, 500 U.S. 136 (1991). For the reasons to follow, the Magistrate Judge recommends the dismissal of this action for Stovall's failure to prosecute his claims.

I. DISCUSSION

On September 8, 2022, the court ordered Stovall to return a signed Prisoner Consent Form to the court within 30 days and advised him that his failure to comply by the deadline could result in the dismissal of his claims without further notice. Doc. 3. Stovall did not return a signed Prisoner Consent Form.

Accordingly, on October 17, 2022, the court again ordered Stovall to return a

signed Prisoner Consent Form and advised him that his failure to comply by October 25 could result in the dismissal of this action. Doc. 4. This deadline has now passed and Stovall has not complied with or otherwise responded to the order.

Because Stovall has not complied with the court's order, this action is due to be dismissed without prejudice for his failure to prosecute his claims.

II. RECOMMENDATION

For the reasons stated above, the court RECOMMENDS that all claims in this action be DISMISSED without prejudice.

III. NOTICE OF RIGHT TO OBJECT

The plaintiff may file specific written objections to this report and recommendation. Any objections must be filed with the Clerk of Court within **14 days**. The plaintiff must identify every objectionable finding of fact or recommendation and state the specific basis for every objection. The plaintiff also must identify every claim in the complaint that the report and recommendation has not addressed. Objections should not contain new allegations, present additional evidence, or repeat legal arguments.

A plaintiff who fails to object to factual or legal conclusions in the Magistrate Judge's report and recommendation waives the right to challenge on appeal those same conclusions adopted in the District Judge's order. Without a proper objection,

however, the court on appeal may review the unobjected-to factual and legal conclusions for plain error if necessary in the interests of justice. 11th Cir. R. 3-1.

After receiving the plaintiff's objections, a District Judge will conduct a *de novo* review of the relevant portions of the report and recommendation and may accept, reject, or modify in whole or in part the Magistrate Judge's findings of fact and recommendations. The District Judge also may refer this action back to the Magistrate Judge with instructions for further proceedings.

The plaintiff may not appeal the Magistrate Judge's report and recommendation directly to the United States Court of Appeals for the Eleventh Circuit. The plaintiff may appeal only from a final judgment entered by a District Judge.

DONE and ORDERED on November 1, 2022.



GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE